

AMENDED IN SENATE APRIL 29, 2014
AMENDED IN SENATE MARCH 28, 2014
AMENDED IN SENATE MARCH 26, 2014

SENATE BILL

No. 973

Introduced by Senator Hernandez

February 10, 2014

An act to amend Sections 11839.3, 11839.22, and 11839.24 of the Health and Safety Code, relating to narcotic treatment.

LEGISLATIVE COUNSEL'S DIGEST

SB 973, as amended, Hernandez. Narcotic treatment programs.

Existing law requires the State Department of Health Care Services to administer prevention, treatment, and recovery services for alcohol and drug abuse. Existing law requires the department to license the establishment of narcotic treatment programs in this state to use narcotic replacement therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription. Existing law authorizes a program to admit a patient to narcotic maintenance or narcotic detoxification treatment 7 days after completion of a prior withdrawal treatment episode.

This bill, instead, would authorize a program to admit a patient to narcotic maintenance or narcotic detoxification treatment at the discretion of the medical director and would require the program to assign a unique identifier to, and maintain an individual record of, each patient of the program. The bill would also ~~authorize~~ *specify that* the program operation guidelines for narcotic treatment programs ~~to may~~

include ~~accurate, reliable~~, *reliable* and medically necessary body fluid analysis *other than urinalysis*.

Existing law specifies the intent of the Legislature that take-home dosage of the narcotic replacement only be provided when the patient is clearly adhering to the requirements of the program and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking.

This bill, in addition, would authorize take-home dosage to be provided to patients who are clearly adhering to the requirements of the program where daily attendance at a clinic would be incompatible with retirement or medical disability or if the program is closed on Sundays or holidays and providing a take-home dose is not contrary to federal laws and regulations. The bill would prohibit a narcotic treatment program from providing a take-home dosage that requires dilution.

Existing law requires substance abuse testing for narcotic treatment programs to be performed by a laboratory approved and licensed by the State Department of Public Health.

This bill would require a narcotic treatment program to have samples from each patient's urinalysis or other body fluid test collected and analyzed for evidence of specified substances, including methadone, opiates, and cocaine, and would authorize the program to test for evidence of other illicit drugs if those drugs are commonly used in the area served by the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11839.3 of the Health and Safety Code
- 2 is amended to read:
- 3 11839.3. (a) In addition to the duties authorized by other
- 4 statutes, the department shall perform all of the following:
- 5 (1) License the establishment of narcotic treatment programs
- 6 in this state to use narcotic replacement therapy in the treatment
- 7 of addicted persons whose addiction was acquired or supported
- 8 by the use of a narcotic drug or drugs, not in compliance with a
- 9 physician and surgeon's legal prescription, except that the Research
- 10 Advisory Panel shall have authority to approve methadone or
- 11 LAAM research programs. The department shall establish and
- 12 enforce the criteria for the eligibility of patients to be included in

1 the programs, program operation guidelines, including dosage
2 levels, recordkeeping and reporting, *requirements for* urinalysis
3 or other ~~accurate, reliable,~~ *reliable* and medically necessary body
4 fluid analysis ~~requirements,~~ *that is at least as accurate as, or more*
5 *accurate than, current testing methods,* take-home doses of
6 controlled substances authorized for use pursuant to Section
7 11839.2, security against redistribution of the narcotic replacement
8 drugs, and any other regulations that are necessary to protect the
9 safety and well-being of the patient, the local community, and the
10 public, and to carry out this chapter. A program may admit a patient
11 to narcotic maintenance or narcotic detoxification treatment at the
12 discretion of the medical director. The program shall assign a
13 unique identifier to, and maintain an individual record for, each
14 patient of the program. The arrest and conviction records and the
15 records of pending charges against a person seeking admission to
16 a narcotic treatment program shall be furnished to narcotic
17 treatment program directors upon written request of the narcotic
18 treatment program director provided the request is accompanied
19 by a signed release from the person whose records are being
20 requested.

21 (2) Inspect narcotic treatment programs in this state and ensure
22 that programs are operating in accordance with the law and
23 regulations. The department shall have sole responsibility for
24 compliance inspections of all programs in each county. Annual
25 compliance inspections shall consist of an evaluation by onsite
26 review of the operations and records of licensed narcotic treatment
27 programs' compliance with applicable state and federal laws and
28 regulations and the evaluation of input from local law enforcement
29 and local governments, regarding concerns about the narcotic
30 treatment program. At the conclusion of each inspection visit, the
31 department shall conduct an exit conference to explain the cited
32 deficiencies to the program staff and to provide recommendations
33 to ensure compliance with applicable laws and regulations. The
34 department shall provide an inspection report to the licensee within
35 30 days of the completed onsite review describing the program
36 deficiencies. A corrective action plan shall be required from the
37 program within 30 days of receipt of the inspection report. All
38 corrective actions contained in the plan shall be implemented
39 within 30 days of receipt of approval by the department of the
40 corrective action plan submitted by the narcotic treatment program.

1 For programs found not to be in compliance, a subsequent
2 inspection of the program shall be conducted within 30 days after
3 the receipt of the corrective action plan in order to ensure that
4 corrective action has been implemented satisfactorily. Subsequent
5 inspections of the program shall be conducted to determine and
6 ensure that the corrective action has been implemented
7 satisfactorily. For purposes of this requirement, “compliance” shall
8 mean to have not committed any of the grounds for suspension or
9 revocation of a license provided for under subdivision (a) of
10 Section 11839.9 or paragraph (2) of subdivision (b) of Section
11 11839.9. Inspection of narcotic treatment programs shall be based
12 on objective criteria including, but not limited to, an evaluation of
13 the programs’ adherence to all applicable laws and regulations and
14 input from local law enforcement and local governments. Nothing
15 in this section shall preclude counties from monitoring their
16 contract providers for compliance with contract requirements.

17 (3) Charge and collect licensure fees. In calculating the licensure
18 fees, the department shall include staff salaries and benefits, related
19 travel costs, and state operational and administrative costs. Fees
20 shall be used to offset licensure and inspection costs, not to exceed
21 actual costs.

22 (4) Study and evaluate, on an ongoing basis, narcotic treatment
23 programs including, but not limited to, the adherence of the
24 programs, to all applicable laws and regulations and the impact of
25 the programs on the communities in which they are located.

26 (5) Provide advice, consultation, and technical assistance to
27 narcotic treatment programs to ensure that the programs comply
28 with all applicable laws and regulations and to minimize any
29 negative impact that the programs may have on the communities
30 in which they are located.

31 (6) In its discretion, to approve local agencies or bodies to assist
32 it in carrying out this chapter provided that the department may
33 not delegate responsibility for inspection or any other licensure
34 activity without prior and specific statutory approval. However,
35 the department shall evaluate recommendations made by county
36 alcohol and drug program administrators regarding licensing
37 activity in their respective counties.

38 (7) The director may grant exceptions to the regulations adopted
39 under this chapter if he or she determines that this action would
40 improve treatment services or achieve greater protection to the

1 health and safety of patients, the local community, or the general
2 public. No exception may be granted if it is contrary to, or less
3 stringent than, the federal laws and regulations that govern narcotic
4 treatment programs.

5 (b) It is the intent of the Legislature in enacting this section, in
6 order to protect the general public and local communities, that
7 take-home dosage shall only be provided when the patient is clearly
8 adhering to the requirements of the program, and where daily
9 attendance at a clinic would be incompatible with gainful
10 employment, education, responsible homemaking, retirement or
11 medical disability, or if the program is closed on Sundays or
12 holidays and providing a take-home dose is not contrary to federal
13 laws and regulations governing narcotic treatment programs. The
14 department shall define “satisfactory adherence” and shall ensure
15 that patients not satisfactorily adhering to their programs shall not
16 be provided take-home dosage. A narcotic treatment program shall
17 not provide a take-home dosage that requires dilution.

18 (c) There is established in the State Treasury the Narcotic
19 Treatment Program Licensing Trust Fund. All licensure fees
20 collected from the providers of narcotic treatment services shall
21 be deposited in this fund. Except as otherwise provided in this
22 section, if funds remain in this fund after appropriation by the
23 Legislature and allocation for the costs associated with narcotic
24 treatment licensure actions and inspection of narcotic treatment
25 programs, a percentage of the excess funds shall be annually
26 rebated to the licensees based on the percentage their licensing fee
27 is of the total amount of fees collected by the department. A reserve
28 equal to 10 percent of the total licensure fees collected during the
29 preceding fiscal year may be held in each trust account to reimburse
30 the department if the actual cost for the licensure and inspection
31 exceed fees collected during a fiscal year.

32 (d) Notwithstanding any provision of this code or regulations
33 to the contrary, the department shall have sole responsibility and
34 authority for determining if a state narcotic treatment program
35 license shall be granted and for administratively establishing the
36 maximum treatment capacity of a license. However, the department
37 shall not increase the capacity of a program unless it determines
38 that the licensee is operating in full compliance with applicable
39 laws and regulations.

1 SEC. 2. Section 11839.22 of the Health and Safety Code is
2 amended to read:

3 11839.22. The state department shall require a system to detect
4 multiple registrations by narcotic treatment program patients.

5 SEC. 3. Section 11839.24 of the Health and Safety Code is
6 amended to read:

7 11839.24. (a) Substance abuse testing for narcotic treatment
8 programs operating in the state shall be performed only by a
9 laboratory approved and licensed by the State Department of Public
10 Health for the performance of those tests.

11 (b) A narcotic treatment program shall have samples from each
12 patient's urinalysis or other bodily fluid test collected and analyzed
13 for evidence of the following substances in a patient's system:

14 (1) Methadone and its primary metabolite.

15 (2) Opiates.

16 (3) Cocaine.

17 (4) Amphetamines.

18 (5) Benzodiazepines.

19 (c) A narcotic treatment program may have samples from each
20 patient's urinalysis or other bodily fluid test collected and analyzed
21 for evidence of other illicit drugs if those drugs are commonly
22 used in the area served by the narcotic treatment program.